

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. W.A.
DREW EDMONDSON, in his capacity as
ATTORNEY GENERAL OF THE
STATE OF OKLAHOMA AND
OKLAHOMA SECRETARY OF THE
ENVIRONMENT C. MILES TOLBERT,
in his capacity as the TRUSTEE FOR
THE NATURAL RESOURCES FOR
THE STATE OF OKLAHOMA,

Plaintiff,

v.

Case No. 05-CV-00329 GKF-SAJ

TYSON FOODS, INC., TYSON
POULTRY, INC., TYSON CHICKEN,
INC., COBB-VANTRESS, INC., CAL-
MAINE FOODS, INC., CAL-MAINE
FARMS, INC., CARGILL, INC.,
CARGILL TURKEY PRODUCTION,
LLC, GEORGE'S, INC., GEORGE'S
FARMS, INC., PETERSON FARMS,
INC., SIMMONS FOODS, INC., and
WILLOW BROOK FOODS, INC.,

Defendants.

REPLY OF POULTRY PARTNERS TO
STATE OF OKLAHOMA'S RESPONSE TO
BRIEF OF *AMICUS CURIAE* POULTRY PARTNERS, INC.'S

INTRODUCTION

Boiled to its essence, the Plaintiff states that Poultry Partners' Brief *Amicus Curiae* is irrelevant because "balance of the harms" is not proper in this case, and the court should not consider the Affidavits because "the State will not be afforded the right of cross-examination." Plaintiff is wrong on both counts.

1. In its Reply Brief in Support of its Motion for Permission to file an *Amicus Curiae* Brief (Document 1430), Poultry Partners addressed the “balance of the harms” issue. Presumably, since the Court allowed Poultry Partners to file an *amicus curiae* brief (Document 1447), the Court does not agree with Plaintiff’s position.

2. Plaintiff deposed three of the four Affiants¹ and has had the opportunity to depose the other.² That Plaintiff in those depositions chose not to inquire into the devastating impact its case might have upon the Affiants' family farms is no fault of the Affiants. The Plaintiff cannot now be heard to complain about a problem (lack of cross-examination) of its own making.

CONCLUSION

For the foregoing reasons, this Court should consider Poultry Partners' Brief *Amicus Curiae* and deny the Plaintiff's request for an injunction that will put many of Poultry Partners' Members out of business.

Respectfully submitted,

s/ Michael D. Graves

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¹ Plaintiff deposed Jim Pigeon, Ricky Reed and W. A. Saunders.

² Plaintiff has, on its own volition, twice continued the 30(b)(6) deposition of Jerry Hunton, President of Poultry Partners.

CERTIFICATE OF SERVICE

I certify that on the 19th day of February, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached document by United States Postal Service, proper
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